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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Geoffrey S. Ratte
Serial No.: 09/638,743
Filed: 8/14/2000
For: FISHING LINE CLAMP

Attorney file: 5458
Examiner: Rowan, Kurt C.
Group: 3643

I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington D.C. 20231 on JANUARY 27, 2003 by applicant's attorney, Carl L. Johnson.

Carl L. Johnson
Carl L. Johnson
JANUARY 27, 2003
Date

APPEAL BRIEF

Assistant Commissioner For Patents
Washington, D.C. 20231

RECEIVED

FEB 06 2003

GROUP 3600

Dear Sir:

Enclosed is an appeal brief that the applicant is submitting for the above-identified patent application under 37 C.F.R. 1.17(C). The applicant has included three (3) copies of the brief along with a check in the amount of \$160.00 for the brief filing fee. The applicant does not wish to request for an oral hearing. The applicant is a small entity. Please charge any deficiency in fees to deposit account 10-0210.

Respectfully submitted,

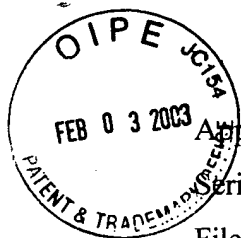
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CLJ/cj
Enclosure



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Braham
02/11/03
#13
appeal Brief

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Carl L. Johnson

Carl L. Johnson

JANUARY 27, 2003

Date

Honorable Commissioner for Patents

Washington D. C. 20231

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GROUP 3600

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

APPLICANT'S APPEAL BRIEF

Sir:

I. REAL PARTY IN INTEREST

The real party in interest is Water Gremlin Company, assignee of U.S. patent application serial number 09/638,743; filed on August 14, 2000; titled FISHING LINE CLAMP.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to the above-identified patent application.

III. STATUS OF CLAIMS

Claims 1 and 3-11 to a fishing clamp sinker have all been rejected.

IV. STATUS OF AMENDMENTS AFTER FINAL

The application was twice rejected on September 10, 2002. In response to the second rejection of September 10, 2002 a Notice of Appeal was filed on December 3, 2002.

V. SUMMARY OF INVENTION

The present invention comprises a bullet-shaped line clamp sinker movable between an open and closed condition comprising a cone shaped body having a neutral surface and being composed of a bendable material with the cone shaped body having a first end smaller than a second end of the body. The cone shaped body includes an exterior surface smoothly converging from the first end to the second end of the cone shaped body to form a streamline shape that inhibits snagging and propeller action as the body is pulled through a fluid. The cone shaped body also includes a first curved gripping surface and a second curved gripping surface located on the body with the curved gripping surfaces undulating through the cone shaped body to provide a surface free of angled corners to thereby inhibit line damping with the curved gripping surfaces extending from the first end to the second end of the cone shaped body. The first curved gripping surface includes at least one surface contouring protrusion and a portion extending proximate a geometric center of the line clamp sinker. The second curved gripping surface includes a surface contouring recess mateable with the protrusion of the first curved gripping surface to produce a nonlinear path through the resilient body so that

the second curved gripping surface and the first curved gripping surface may coact to grasp a line located therein to prevent the slippage of the line therein as the line is squeezed and held therebetween by bending the line clamp around the line.

VI. ISSUES

1. Whether it would have been obvious to combine Wymore's split spherical sinker with Wymore's worm weight in rejecting the applicant's claims 1, 3, and 11?
2. Whether the reference of Wymore teaches a recess for allowing a sinker clamp to require less tension force necessary to open and close the jaws of the sinker clamp than if the recess did not exist?
3. Whether the reference of Wymore teaches a first and second thumbnail recess of applicant's claims 3 and 11 and a first and second thumbnail relief of applicant's claim 10?
4. Whether the combination of Wymore et al. and Crumrine. et al. makes obvious a fishing line clamp having a body made of an alloy of bismuth?
5. Whether the reference of Wymore teaches a clamp sinker having a body with asymmetrical line gripping surfaces?
6. Whether the reference of Wymore teaches a finger bendable sinker body?

7. Whether the reference of Wymore teaches a clamp sinker having jaws extending the entire length of the clamp sinker and with diverging exterior surfaces?
8. Whether the reference of Wymore teaches a clamp sinker having two asymmetrical jaws extending to a geometric center of the clamp sinker?

VII. GROUPING OF CLAIMS

Claims 1, 3, and 11 stand alone on their own. While claims 4 -10 rely on claim 1, each of claims 4-10 stands alone.

VIII. ARGUMENT

In the Office Action dated September 10, 2002 the Examiner rejected claims 1, 3-4, and 6-10 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore, US Patent 4,944,107. The Examiner also rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore as applied to claim 1 and further in view of the reference of Crumrine, U.S. Patent 5,537,775.

In further regards to the Examiner's rejection of the claims, it is noted that the office action is confusing as to whether claim 11 is rejected. The Examiner's comments on page 2, line 3 indicated that only claims 1, 3-4, and 6-10 were rejected under 35 U.S.C. §103(a) to Wymore. However, the Office Action Summary and the Examiner's comments on page 2, line 21 and page 3, lines 1-9 of the office action indicated that claim 11 was also rejected. For the

purposes of Appeal, the applicant will take the position that independent claim 11 was intended to be rejected under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore per the Office Action Summary and the Examiner's comments on page 2, line 21 and page 3, lines 1-9 of the office action dated September 10, 2002.

1. It would not have been obvious to combine Wymore's split spherical sinker with Wymore's worm weight to reject the applicant's claims 1, 3, and 11.

On page 2, line 21 and on page 3, lines 1-2 of the office action, in rejecting the applicant's claims 1, 3, and 11 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore, the Examiner stated that:

"In reference to claims 1, 3, 11, it would have been obvious to provide the cone shaped embodiment of Fig. 4 with curved gripping surfaces as shown in Fig. 1 for the purpose of fixing the line in relation to the sinker."

The applicant disagrees with the Examiner's combination of Wymore's split spherical sinker, as shown in Figures 1-3, with Wymore's worm weight, as shown in Figures 4-6, in rejecting applicant's claims 1, 3, and 11.

The reference of Wymore specifically states in column 3, lines 4-5 that Wymore's "FIG. 1 and FIG. 2 show all the essential elements of the embodiment of the split spherical sinker invention." (Emphasis added.) Wymore further states in column 3, lines 14-16, that his "FIG. 4 and FIG. 5 show all the essential elements of the embodiment of the invention with respect to the worm weights." (Emphasis added.)

Wymore's split spherical sinker, as shown in Figure 1, meshes its teeth 28 and 30 together to keep a fishing line from escaping. (See col. 3, lines 50-52.) Once secured to the fishing line Wymore's split spherical sinker remains in one place. Note that a key feature of the "essential elements" of the Wymore spherical shaped sinker, as shown in Wymore's Figures 1-3, is the "clenching" of his spherical shaped sinker onto a fishing line to hold his spherical shaped sinker in position on the fishing line.

Wymore's worm weight, as shown in Figure 4, is for bass fishing. A review of the "essential elements" of the Wymore bullet shaped worm weight, as shown in his Figures 4-6, reveals that Wymore's bullet shaped worm weight is not "clenched" to the fishing line. Instead, Wymore specifically states in column 3, lines 57-62 that:

"Application of coupled pressure to the top and bottom body elements 38 and 40 causes the line containers 46 and 47 to come together thus locking the line in the center of the sinker. The fishing line has enough clearance to allow the sinker to slide on the line." (Emphasis added.)

Based on the express statements of Wymore, the applicant submits that Wymore teaches that there are two types of sinkers. A fixed sinker, namely a split shot sinker that "clenches" to a fishing line and a bass sinker or bullet shaped sinker ("worm weight" (column 3, line 16)) that "slides" along a fishing line. Thus one type of sinker is clenched in place while the other is allowed to slide along a fishing line.

The applicant submits that the Examiner is in error in substituting the clenching action of the fixed split shot sinker for the sliding action of the worm weight.

Applicant submits that if the reference of Wymore teaches that the worm weight embodiment of Figures 4-6 is made to "slide on the line" and the spherical shaped sinker embodiment of Figures 1-3 is not allowed to slide on the fishing line, that there is no impetus to combine the two invention since to use the "clenching" feature of the spherical shaped sinker of Figures 1-3 on the worm weight of Figures 4-6 would destroy the "sliding" feature that Wymore requires of his worm weight for bass fishing.

Applicant also submits that there is no impetus to combine the two inventions since to use the "sliding" feature of the worm weight of Figures 4-6 on the spherical shaped sinker of Figures 1-3 would destroy the "clenching" feature that Wymore requires of his spherical split shot sinker.

The applicant further submits that by combining the cone shaped embodiment of the worm weight (as shown in Wymore's Figure 4-6) with curved gripping surfaces of the spherical shaped sinker embodiment (as shown in Figures 1-3), that the Examiner is using impermissible hindsight reconstruction by simply picking isolated elements from each distinct invention of the prior art and combining them to yield the clamp sinker of the applicant's invention.

In the case of *In re Fine*, the C.A.F.C. held that:

“One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” Emphasis added, see *In re Fine*, 5 USPQ2d 1596, 1600 (C.A.F.C. 1988).

It is for the above that the applicant submits that it would not have been obvious to combine Wymore's split spherical sinker with Wymore's worm weight in rejecting applicant's claims 1, 3, 10, and 11 as there is no impetus to combine Wymore's split spherical sinker with Wymore's worm weight. The applicant further submits that by combining elements of the two distinct invention of Wymore, namely Wymore's split spherical shaped sinker and Wymore's worm weight, that the Examiner is using impermissible hindsight reconstruction to deprecate the claimed invention.

Further note that even though Wymore disclosed both of the embodiments, namely the “clenching” split spherical shaped sinker and the “sliding” worm weight in the same reference, Wymore did not suggest changes to either since he describes each of their features as “essential elements.” (See column 3, lines 4-5 and column 3, lines 14-16 of Wymore.) As Wymore had both of the embodiments before him and did not suggest the combination, the applicant further submits that it would not have been obvious to combine Wymore's split spherical sinker with Wymore's worm weight in rejecting the invention of applicant's claims 1, 3, 10, and 11.

- 2. The reference of Wymore does not teach a recess for allowing a sinker clamp to require less tension force necessary to open and close the jaws of the sinker clamp than if the recess did not exist.**

On page 3, lines 4-6 of the office action, the Examiner stated that:

“Wymore shows a mouth groove or recess 24 in Figs. 1-3 which would require less tension force to open and close the jaws since a larger opening permits more leverage to act on the jaws.”

The applicant disagrees with the Examiner's above statement. Applicant's claim 3 calls for a line clamp sinker having:

“a recess located between said first line centering surface and second line centering surface, said recess allowing said line clamp to require less tension force necessary to open and close the jaws of said line clamp than if said recess did not exist.”

And similarly, applicant's claim 11 calls for a line clamp sinker having:

“a recess allowing said line clamp to require less tension force necessary to open and close the jaws of said line clamp than if said recess did not exist”

As shown in Figure 13 of the applicant's disclosure, the recess is located between the first line centering surface 57 and the second line centering surface 58 with the area of the recess being “indirectly proportional to the area of the peripheral hinge.” Since the size of the recess is “indirectly proportional to the area of the peripheral hinge,” if the area of recess 56 increases, the area of peripheral hinge will decrease; vice versa. (Also see page 12, lines 16-17 of the disclosure.) Since it is more difficult to open and close the jaws of a clamp sinker with a larger peripheral area than a clamp sinker with a smaller peripheral (page 12, lines 18-19 of disclosure) the presence of the recess allows the clamp sinker “to require less tension force necessary to open and close the jaws of said line clamp than if said recess did not exist” since the presence of the recess reduces “the area of peripheral hinge.” (Emphasis added.)

The applicant submits that the reference of Wymore does not teach the recess of applicant's claims 3 and 11. In regards to Wymore's mouth groove 24, the applicant submits that Wymore's mouth groove 24 is not a recess for reducing the tension force necessary to open

and close the top and bottom elements 20 and 22 of the split spherical sinker. Instead, Wymore's mouth groove 24 is formed by positioning of the members 20 and 22 of Wymore's split spherical sinker in the open condition and is for securing his split spherical sinker upon a fishing line. Note that without the presence of the recess of applicant's claim 3 and claim 11, the peripheral area of the clamp sinker will be larger than with the presence of the recess, thus more tension force will be required to open and close the jaws of the clamp sinker. Without the presence of the mouth groove 24, Wymore's split spherical sinker cannot be secured to a fishing line.

In further regards to the above, applicant's claims 3 and 11 both call for a recess that allows:

“said line clamp to require less tension force necessary to open and close the jaws of said line clamp than if said recess did not exist.” (Emphasis added.)

In rejecting claims 3 and 11, although the examiner stated that Wymore's mouth groove 24 “would require less tension force to open and close the jaws,” (page 3, lines 4-6) the Examiner leaves the applicant stranded as to the embodiment that the Examiner is comparing the Wymore embodiment having the mouth groove to. In view of the aforementioned, the applicant respectfully request that the Examiner provide evidence to further clarify and support the Examiner's above statement. It is noted that a comparison of the required tension force necessary to open and close the jaws of the Wymore's split spherical embodiment having mouth groove 24 versus the Wymore's split spherical embodiment which lack mouth groove 24 is improper as the jaws of the Wymore's split spherical embodiment which lack mouth groove 24 cannot be opened or closed.

It is for the above that the applicant submits that the reference of Wymore does not teach a recess for allowing the sinker clamp to require less tension force necessary to open and close the jaws of the sinker clamp than if the recess did not exist.

3. The reference of Wymore does not teach the first and second thumbnail recess of applicant's claims 3 and 11 and the first and second thumbnail relief of applicant's claim 10.

A. The reference of Wymore does not teach a clamp fishing sinker having a first thumbnail recess and a second thumbnail recess extending inward sufficiently far to allow a user to insert a fingernail or a thumbnail therein.

On page 3, lines 6-9 of the office action, in rejecting the applicant's claims 3 and 11 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore, the Examiner stated that:

“The mouth groove 24, which is shown in Fig. 1 with a first portion on the left below the centerline and a second portion on the right above the centerline which acts as first and second thumbnail recesses which are located at a peripheral edge of the body and extend inwardly sufficiently far to allow a user to insert a thumbnail therein.”

The applicant submits that the Examiner is in error. Applicant's independent claims 3 and 11 both call for:

“a first thumbnail recess and a second thumbnail recess located at a peripheral edge of said body, said first thumbnail recess and a second thumbnail recess extending inward sufficiently far to allow a user to insert a fingernail or a thumbnail therein.” (Emphasis added)

The applicant submits that the reference of Wymore does not teach his split spherical sinker (shown in Figures 1-3) as having a first and a second thumbnail recess “extending inward sufficiently far to allow a user to insert a fingernail or a thumbnail therein.” Instead, the reference of Wymore teaches a mouth groove 24 for closing upon a line when coupled pressure is applied to the elements 20 and 22 his split spherical sinker. (Column 3, lines 45-47.) In the closed condition, Wymore’s mouth groove 24 does not “permit a user to insert a fingernail or thumbnail thereon to pry apart the sinker.”

Referring to Wymore's Figure 3, note that in the closed condition, Wymore's split spherical shaped sinker does not provide a recess to “permit a user to insert a fingernail or thumbnail thereon to pry apart the sinker.” Instead, the user squeezes the top pressure step 34 and bottom pressure step 36 to return Wymore’s split spherical sinker back to an open condition. (Column 3, lines 52-54.) Note that the Wymore teaches the opposite of the applicant’s claims 3 and 11, that is, Wymore teaches the “squeezing” of his pressure step to open his sinker whereas the applicant’s claims 3 and 11 goes against Wymore by disclosing the “pulling apart” of the jaws to change the applicant’s sinker from a closed condition to an open condition.

In regards to the Office’s statement that “a first portion on the left below the centerline and a second portion on the right above the centerline which acts as first and second thumbnail recesses,” (page 3, lines 6-9 of the Office action) the applicant disagrees. The “first portion on the left below the centerline” and the “second portion on the right above the centerline” of Wymore’s split spherical sinker are not thumbnail recesses for the insertion of a fingernail or a

thumbnail therein. Instead, the applicant submits that the “first portion on the left below the centerline” of Wymore’s split spherical sinker is for receiving Wymore’s top tooth 28 and the “second portion on the right above the centerline” of Wymore’s split spherical sinker is for receiving Wymore’s bottom tooth 30. The applicant further submits that there is no teaching that Wymore’s split spherical shaped sinker opens by using teeth 28 and 30.

Further note that in a closed condition (as shown in Wymore's Figure 3), the “first portion on the left below the centerline” and the “second portion on the right above the centerline” of Wymore’s split spherical sinker do not allow a user to insert the user's fingernail or thumbnail therein.

B. The reference of Wymore does not teach a first relief located on a top half of a sinker and a second relief located on the bottom half of the clamp sinker to permit a user to insert a fingernail or thumbnail thereon to pry apart the sinker in a closed condition.

On page 3, lines 17-19 of the office action, in rejecting the applicant’s dependent claim 10, the Examiner stated that:

“In reference to claim 10, Wymore shows first and second relief 24 on the top and bottom of the sinker as shown in Figs 1, 2 to permit a user to use a fingernail or thumbnail to pry apart the sinker in the closed condition.”

The Examiner is in error. Applicant’s dependent claim 10 calls for a bullet shaped line clamp having:

“a first relief on a top half of the sinker and a second relief on the bottom half of the sinker to permit a user to insert a fingernail or thumbnail thereon to pry apart the sinker if the sinker is in a closed condition.” (Emphasis added.)

The applicant submits that the reference of Wymore does not teach his split spherical sinker (shown in Figures 1-3) as having a first and a second relief “to permit a user to insert a fingernail or thumbnail thereon to pry apart the sinker if the sinker is in a closed condition.” (Emphasis added.) Instead, as previously mentioned, the reference of Wymore teaches a mouth groove 24 for closing upon a line when coupled pressure is applied to the elements 20 and 22 of Wymore’s split spherical sinker. (Column 3, lines 45-47.) Contrary to the first relief and the second relief of applicant’s claim 10, in the closed condition, Wymore’s top tooth 28 mate with the “first portion on the left below the centerline” of Wymore’s split spherical sinker and Wymore’s bottom tooth 30 mate with the “second portion on the right above the centerline” of Wymore’s split spherical sinker and do not “permit a user to insert a fingernail or thumbnail thereon to pry apart the sinker.” (Emphasis added.)

In further regards to the above, not only does Wymore’s specification not mention a thumbnail recess to open and close his sinker, Wymore’s drawing in Figure 3 shows that, in the closed condition, Wymore’s split spherical sinker lacks thumbnail relief(s) or thumbnail recesses for insertion of a fingernail or thumbnail thereon. Instead of using thumbnail relief(s), to return Wymore’s split spherical sinker back to an open condition, Wymore specifically discloses the use of pressure steps 34 and 36, which are squeezed to move Wymore’s split spherical sinker from the closed condition to the open condition. (Column 3, lines 52-54.) Applicant submits that thumbnail relief(s) or thumbnail recesses for “prying apart” a sinker is different from pressure steps for “squeezing apart” a sinker.

It is for the above reasons that the applicant submits that the reference of Wymore does not teach the first and second thumbnail recesses of applicant's claims 3 and 11 and the first and second thumbnail relieves of applicant's claim 10.

4. The combination of the reference Wymore et al. and the reference of Crumrine. et al. does not make obvious a fishing line clamp having a body made of an alloy of bismuth.

Applicant's claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore as applied to claim 1 and further in view of the reference of Crumrine. On page 4, lines 3-6 of the office action, in rejecting the applicant's dependent claim 5, the Examiner stated that:

“it would have been obvious to make the sinker of Wymore from bismuth as shown by Crumrine for the purpose of having a non-toxic sinker.”

The applicant disagrees with the Examiner's above combination of Wymore and Crumrine in rejecting dependent claim 5. Applicant's dependent claim 5 calls for a bullet shaped line clamp having a body made of “an alloy of bismuth.” (Emphasis added.)

The reference of Crumrine shows a weighted jig head specifically designed for securement to a hook. (See Figures 2-4 and 6 of Crumrine.) The reference of Wymore teaches a split spherical sinker “which will place less trauma on the line than conventional clamp-on balls” (col. 1, lines 65-66 of Wymore) and a worm weight for bass fishing which “will never require the line to be severed for the purpose of adding or changing worm weights” (see col. 2, line 5-7 of

Wymore). Wymore's split spherical sinker attaches to a fishing line through the squeezing action of Wymore's elements 20 and 22. (See Figures 1-5 of Wymore.) Unlike Wymore, Crumrine's weighted jig head does not secure to a fishing line but instead is for securing to a hook. Further note that Crumrine's weighted jig is not secured to his hook through jaw engagement. Instead, Crumrine's weighted jig head is secured to his hook by way of ledge 37 and a locking tab 28. (See Figures 2-4 and 6 of Crumrine.)

The applicant also submits that the combination of the Wymore and Crumrine does not make obvious a fishing line clamp having a body made of an alloy of bismuth. As stated above, Applicant's dependent claim 5 calls for a bullet shaped line clamp having a body made of "an alloy of bismuth." (Emphasis added.)

The applicant agrees with the Examiner's statement on page 4, lines 3-4 that Wymore "does not disclose bismuth." A review of Wymore indicates that Wymore also fails to disclose an alloy of bismuth. In regards to Crumrine, although Crumrine discloses in column 4, lines 44-47 that his weight 30 "may be constructed of a variety of materials such as lead, steel, tin, bismuth," a review of Crumrine indicates that Crumrine also fails to disclose an alloy of bismuth. Applicant submits that bismuth and an alloy of bismuth are different from each other. As neither reference disclose the use of an alloy of bismuth, applicant submits that their combination does not make obvious a fishing line clamp having a body made of an alloy of bismuth.

It is for the above reasons that the applicant submits the combination of the teaching of Wymore and the teaching of Crumrine does not make obvious a fishing line clamp having a body made of an alloy of bismuth.

5. The reference of Wymore does not teach a clamp sinker having a body with asymmetrical line gripping surfaces.

On page 3, lines 9-10 of the office action, in rejecting the applicant's claims 4 and 7 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore, the Examiner stated that:

“In reference to claims 4, 7, Wymore shows the body as a single integral member with asymmetrical line gripping surfaces 28, 30.”

In regards to claim 4, applicant's claim 4 calls for a bullet-shaped clamp having “line gripping surfaces asymmetrical but mateable with each other.”

The applicant disagrees with the Examiner's statement that Wymore shows a body “with asymmetrical line gripping surfaces 28, 30.” Note that the spherical-shape of Wymore's split spherical sinker results in symmetrical and not asymmetrical line gripping surfaces as evidenced by Wymore's Figure 1.

6. The reference of Wymore does not teach a finger bendable sinker body

Applicant's claim 6 calls for a bullet shaped line clamp in which the “body is finger bendable.”

On page 3, lines 10-13 of the office action, in rejecting the applicant's claim 6 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore, the Examiner stated that:

“In reference to claim 6, it is not clear if Wymore contemplates finger bendable clamps, but it would have been obvious to employ a finger bendable clamp for the purpose of not needing a pliers to operate the clamp.”

The applicant disagrees with the Examiner's above statement on the obviousness of employing finger bendable clamps for the purpose of not needing pliers. The applicant submits that the issue is not whether “pliers” or any other type of tools can be used on a fishing sinker but to whether the reference of Wymore teaches that the body of his sinker “is finger bendable.” Wymore does not teach that the body of his sinker “is finger bendable.”

It is for the above that the applicant submits that the Examiner is in error in rejecting dependent claim 6 as the reference of Wymore does not teach his sinker body as being “finger bendable.”

7. The reference of Wymore does not teach a clamp sinker having jaws extending the entire length of the clamp sinker and with diverging exterior surfaces.

On page 3, lines 13-14 of the Examiner action, in rejecting the applicant's claim 8 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore, the Examiner stated that:

“In reference to claim 8, Wymore shows the jaws extending the entire length of the line clamp in Fig. 1. Note the diverging exterior surfaces 34, 36.”

In regards to the above, the applicant submits that Wymore's worm weight, as shown in Figures 4-6, does not include jaws that are “clenched” onto a fishing line as Wymore teaches that his worm weight slides along the fishing line.

In regards to Wymore's split spherical shape sinker, the applicant submits that the Examiner is confusing Wymore's pressure steps 34 and 36 with jaws. Note in Figure 3 of Wymore that pressure steps 34 and 36 do not engage or "clench" the fishing line. Instead, Wymore's pressure steps 34 and 36 are for moving the elements 20 and 22 of Wymore's split spherical shaped sinker from the closed condition to the open condition through a squeezing action directed on the pressure steps 34 and 36.

In further regards to Wymore's split spherical shape sinker, although the jaws/elements 20 and 22 of the split spherical sinker of Wymore's Figures 1-3 extend across his sinker and are "clenched" to his fishing line, Wymore's spherical shaped sinker does not include an exterior diverging surface as called for in applicant's dependent claim 8.

It is for above reasons that the applicant submits that the reference of Wymore does not teach a clamp sinker having jaws extending the entire length of the clamp sinker and with diverging exterior surfaces.

8. The reference of Wymore does not teach a clamp sinker having two asymmetrical jaws extending to a geometric center of the clamp sinker

On page 3, lines 14-17 of the office action, in rejecting the applicant's claim 9 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore, the Examiner stated that:

"In reference to claim 9, Wymore shows a one piece clamp and two asymmetrical jaws 28, 30 extending to the geometric center of line clamp with the jaws being movable between an open and closed condition by pivoting as shown in Fig. 2."

In regards to dependent claim 9, claim 9 calls for a bullet shaped line clamp having “two asymmetrical jaws extending to a geometric center of said line clamp.”

In the Examiner’s rejection of claim 9, the Examiner took the position that Wymore shows “two asymmetrical jaws 28, 30.” (See page 3, line 15 of the Office Action.) The applicant disagrees. The reference of Wymore does not teach asymmetrical jaws. Note that the spherical-shape of Wymore’s split spherical sinker results in the formation of a pair of identical jaws (as shown in Figures 1-3) and not asymmetrical jaws.

In summary, it is submitted that the Examiner has erred in rejecting applicant’s claims 1, 3-4 and 6-11 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore and applicant’s claim 5 under 35 U.S.C. §103(a) as being unpatentable over the reference of Wymore in further view of the reference of Crumrine. Accordingly, it is respectfully requested that the decision of the Examiner be reversed and that applicant’s claims 1 and 3-11 be allowed.

Respectfully submitted,

JACOBSON AND JOHNSON

By



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CLJ/cj

IX. APPENDIX

Appealed Claims:

1. (Amended) A bullet shaped line clamp sinker movable between an open and closed condition comprising:

a body composed of a bendable material, said body being cone shape and having a neutral surface, said body having a first end and a second end with said first end of said body being smaller than the second end of said body with said body having a smoothly converging exterior surface from said first end to said second end to form a streamline shape that inhibits snagging and propeller action as the body is pulled through a fluid;

a first curved gripping surface on said body, said first curved gripping surface undulating through said body to provide a surface free of angled corners to thereby inhibit line damping, said first curved gripping surface extending from said first end to said second end, said first curved gripping surface having at least one surface contouring protrusion, said first curved gripping surface having a portion extending proximate a geometric center of said line clamp; and

a second curved gripping surface on said body said second curved gripping surface undulating through said body to provide a surface free of angled corners to thereby inhibit line damping, said second curved gripping surface extending from said first end to said second end with said second curved gripping surface including a surface contouring recess mateable with said protrusion to produce a nonlinear path through said resilient body so that when said second curved gripping surface and said first curved gripping surface coact to grasp a line

located therein to prevent the slippage of the line therein as the line is squeezed and held therebetween by bending said line clamp around the line.

3. (Twice Amended) The bullet shaped line clamp sinker movable between an open and closed condition comprising:

a body composed of a bendable material, said body being cone shape and having a neutral surface, said body having a first end and a second end with said first end of said body being smaller than the second end of said body with said body having a smoothly converging exterior surface from said first end to said second end to form a streamline shape that inhibits snagging and propeller action as the body is pulled through a fluid;

a first curved gripping surface on said body, said first curved gripping surface undulating through said body to provide a surface free of angled corners to thereby inhibit line damping, said first curved gripping surface extending from said first end to said second end, said first curved gripping surface having at least one surface contouring protrusion, said first curved gripping surface having a portion extending proximate a geometric center of said line clamp;

a second curved gripping surface on said body said second curved gripping surface undulating through said body to provide a surface free of angled corners to thereby inhibit line damping, said second curved gripping surface extending from said first end to said second end with said second curved gripping surface including a surface contouring recess mateable with said protrusion to produce a nonlinear path through said resilient body so that when said second curved gripping surface and said first curved gripping surface coact to grasp a line

located therein to prevent the slippage of the line therein as the line is squeezed and held therebetween by bending said line clamp around the line;

an integral peripheral hinge connecting the two jaws together, said peripheral hinge having a first line centering surface located at the first end of said line clamp and a second line centering surface located on the second of end of said line clamp, said line centering surface for maintaining said line in a centered condition within said line clamp;

a recess located between said first line centering surface and second line centering surface, said recess allowing said line clamp to require less tension force necessary to open and close the jaws of said line clamp than if said recess did not exist; and

a first thumbnail recess and a second thumbnail recess located at a peripheral edge of said body, said first thumbnail recess and a second thumbnail recess extending inward sufficiently far to allow a user to insert a fingernail or a thumbnail therein.

4. (Twice Amended) The bullet shaped line clamp sinker of claim 1 wherein the body is a single continuous integral member with each of the line gripping surfaces asymmetrical but mateable with each other.

5. (Twice Amended) The bullet shaped line clamp sinker of claim 1 wherein the body is an alloy of bismuth.

6. (Twice Amended) The bullet shaped line clamp sinker of claim 1 wherein the body is finger bendable.

7. (Twice Amended) The bullet shaped line clamp sinker of claim 1 wherein the body is a continuous integral member.
8. (Twice Amended) The bullet shaped line clamp sinker of claim 1 wherein the line clamp has an exterior diverging surface and a set of jaws that extend the entire length of the line clamp.
9. (Twice Amended) The bullet shaped line clamp sinker of claim 1 wherein the line clamp is one piece and includes two asymmetrical jaws extending to a geometric center of said line clamp with said jaws are movable between an open condition and a closed condition by pivoting the jaws.
10. (Twice Amended) The bullet shaped line clamp sinker of claim 1 including a first relief on a top half of the sinker and a second relief on the bottom half of the sinker to permit a user to insert a fingernail or thumbnail thereon to pry apart the sinker if the sinker is in a closed condition.
11. (Twice Amended) A bullet shaped line clamp sinker movable between an open and closed condition comprising:
 - a body composed of bendable material, said body being cone shape and having a neutral surface, said body having a first end and a second end with said first end of said body being smaller than the second end of said body with said body having a smoothly converging

exterior surface from said first end to said second end to form a streamline shape that inhibits snagging and propeller action as the body is pulled through a fluid;

a first line gripping surface on a first end of said body, said first line gripping surface

a second line gripping surface on the first end of said body for mating engagement with said first line gripping surface;

a third line gripping surface on said second end of said body, said third line gripping surface spaced from said first line gripping surface;

a fourth line gripping surface on the second end of said body for mating engagement with said third line gripping surface with said first line gripping surface and said second line gripping surface holding a line in a centered condition on the first end of the clamp sinker and the third line gripping surface and the fourth line gripping surface holding the line in a centered condition on the second end of said body;

a recess allowing said line clamp to require less tension force necessary to open and close the jaws of said line clamp than if said recess did not exist; and

a first thumbnail recess and a second thumbnail recess located at a peripheral edge of said body, said first thumbnail recess and a second thumbnail recess extending inward sufficiently far to allow a user to insert a fingernail or a thumbnail therein.